

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Frederick V. Ross,)	Case No. 2:23-cv-02543-JDA
)	
Plaintiff,)	
)	
v.)	<u>OPINION AND ORDER</u>
)	
South Carolina Department of)	
Corrections,)	
)	
Defendant.)	

This matter is before the Court on Plaintiff's Complaint [Doc. 1] and Amended Complaint [Doc. 10], and a Report and Recommendation ("Report") of the Magistrate Judge [Doc. 14]. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), D.S.C., this matter was referred to United States Magistrate Judge Mary Gordon Baker for pre-trial proceedings.

On February 23, 2024, the Magistrate Judge issued a Report recommending that the case be summarily dismissed without further leave to amend. [Doc. 14.] The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has filed no objections and the time to do so has lapsed.*

* Plaintiff submitted a letter that was entered on the docket on March 11, 2024. [Doc. 16.] However, the letter does not object to any portion of the Report, nor does it specifically address the basis on which the Report recommends summarily dismissing this case—Plaintiff's failure to name a person amenable to suit under § 1983. [Doc. 14 at 5–6; see *also* Doc. 5 at 1–2 (informing Plaintiff that Defendant South Carolina Department of Corrections is not amenable to suit under § 1983 and granting Plaintiff leave to file an amended complaint to name a proper defendant).]

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (internal quotation marks omitted)).

The Court has reviewed the record in this case, the applicable law, and the Report of the Magistrate Judge for clear error. Having done so, the Court accepts the Report and Recommendation of the Magistrate Judge and incorporates it by reference. Accordingly, the action is summarily DISMISSED without prejudice and without further leave to amend.

IT IS SO ORDERED.

s/ Jacquelyn D. Austin
United States District Judge

April 2, 2024
Charleston, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.